

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION**

IN RE:)) CAH ACQUISITION COMPANY #1, LLC,)) d/b/a WASHINGTON COUNTY)) HOSPITAL,)) Debtor.)) _____)	Case No. 19-00730-5-JNC Chapter 11
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IN RE:)) CAH ACQUISITION COMPANY 7, LLC,)) d/b/a PRAGUE COMMUNITY HOSPITAL,))) Debtor.)) _____)	Case No. 19-01298-5-JNC Chapter 11
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IN RE:)) CAH ACQUISITION COMPANY 12, LLC,)) d/b/a FAIRFAX COMMUNITY)) HOSPITAL,)) Debtor.)) _____)	Case No. 19-01697-5-JNC Chapter 11
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IN RE:)) CAH ACQUISITION COMPANY 16, LLC,)) d/b/a HASKELL COUNTY COMMUNITY)) HOSPITAL,)) Debtor.)) _____)	Case No. 19-01227-5-JNC Chapter 11
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**DECLARATION OF THOMAS W. WALDREP, JR. IN SUPPORT OF MOTION
SEEKING (I) AN ORDER CONFIRMING THAT (A) CERTAIN STIMULUS
FUNDS WERE USED IN ACCORDANCE WITH APPLICABLE TERMS AND
CONDITIONS AND (B) TRUSTEE MAY TRANSFER ANY REMAINING
STIMULUS FUNDS TO PURCHASERS; AND (II) AN ORDER ELIMINATING
ANY LIABILITY OF TRUSTEE AND DEBTORS' ESTATES FOR USE OF
STIMULUS FUNDS**

I, Thomas William Waldrep, Jr., being duly sworn, hereby declare under penalty of perjury that the following is true and correct:

INTRODUCTION

1. I am the Trustee administering the bankruptcy estates of CAH Acquisition Company 1, LLC d/b/a Washington Community Hospital (“Washington”); CAH Acquisition Company 7, LLC d/b/a Prague Community Hospital (“Prague”); CAH Acquisition Company 12, LLC d/b/a Fairfax Community Hospital (“Fairfax”); and CAH Acquisition Company 16, LLC d/b/a Haskell County Community Hospital (“Haskell”) (collectively, the “Hospitals” or the “Debtors”). I have served in that capacity since March 2019 for Washington, Prague, and Haskell and since April 2019 for Fairfax.

2. In my capacity as Trustee, I have personal knowledge of, and am familiar with, the business and financial affairs of the Hospitals. As Trustee, I am responsible for and oversee the financial aspects of the Hospitals’ businesses, including financial reporting and internal controls, financial planning, and risk management.

3. I am authorized to make this Declaration on behalf of the Hospitals.

4. I submit this Declaration in support of a motion seeking (i) an Order confirming (a) the Trustee’s appropriate use of certain COVID-19-related stimulus funds (the “Used Funds”) in accordance with applicable terms and conditions (“T&Cs”) and (b) the Trustee’s ability to transfer any remaining COVID-19-related stimulus funds the Trustee has in his possession (the “Unused Funds,” and together with the Used Funds, the “Funds”) to purchasers of the Hospitals (collectively, the “Purchasers”) to be used in accordance with applicable T&Cs; and (ii) an Order barring the U.S. Department of Health and Human Services or any other government entity

(“HHS”) from holding the Trustee or the bankruptcy estates of the various Hospitals liable for any use of the Funds (collectively, the “Motion”).

5. I believe that the relief sought in the Motion will (i) aid in the consummation of certain Court-approved sales and (ii) assist with the administration of the Debtors’ estates.

6. Except as otherwise indicated, all of the facts set forth in this Declaration are based upon my personal knowledge, upon information supplied to me by members of the Hospitals’ management or professionals, or upon information learned from my review of relevant documents. If called as a witness, I could and would testify to the facts set forth in this Declaration.

DESCRIPTION OF FUNDS DISTRIBUTED UNDER THE CARES ACT

7. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law.

8. Under the CARES Act, Congress allocated \$100 billion (the “Provider Relief Fund”) to HHS “to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses to reimburse . . . eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus.”

9. Eligible health care providers are those providers “that provide diagnoses, testing, or care for individuals with possible or actual cases of COVID-19.”

10. Of the \$100 billion allocated to HHS through the CARES Act, \$50 billion of the Provider Relief Fund was allocated for general distribution to Medicare facilities and providers impacted by COVID-19, based on eligible providers’ net patient revenue. Of that \$50 billion in the Provider Relief Fund, an initial \$30 billion was distributed between April 10, 2020 and April

17, 2020 (the “First Round”). The remaining \$20 billion was distributed starting April 24, 2020 (the “Second Round”).

11. HHS broadly views every patient as a possible case of COVID-19.

12. The First Round funds can be used to reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus after January 31, 2020.

13. The Rural Relief Fund funds can be used to reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus after January 31, 2020.

14. If a recipient of Funds does not attest to the T&Cs of the Provider Relief Fund disbursements within 45 days of receipt, the recipient is deemed to have attested to the T&Cs. For April 10, 2020 disbursements, the 45-day deadline is May 25, 2020.

DESCRIPTION OF FUNDS DISTRIBUTED UNDER OHA AND SHIP GRANTS

15. The Oklahoma Hospital Association Grant (the “OHA Grant”) was created to support the urgent preparedness and response needs of hospitals and health systems related to COVID-19.

16. The Oklahoma Hospital Association receives its funding from the Assistant Secretary of Preparedness and Response of HHS.

17. The OHA Grant’s permissible uses include updating pandemic or emergency preparedness plans to include COVID-19 preparedness activities; purchasing personal protective equipment; providing COVID-19 training to staff; examining certain physical infrastructural needs, such as minor retrofitting and alteration or inpatient care areas for enhanced infection control; planning and implementing expanded telemedicine and telehealth capabilities; or creating alternate temporary care sites.

18. The Small Rural Hospital Improvement Grant Program (the “SHIP Grant”) is supported by HHS, specifically the Health Resources and Services Administration’s Federal Office of Rural Health Policy. The SHIP Grant assists eligible hospitals in meeting the costs of implementing data systems, including using funds to assist hospitals in participating in improvements in value and quality to health care.

19. CAHs are eligible for the SHIP Grant.

20. Generally, the SHIP Grant may be spent to (1) ensure hospitals are safe for staff and patients; (2) detect, prevent, diagnose, and treat COVID-19; or (3) maintain hospital operations affected by COVID-19.

DESCRIPTION OF WASHINGTON’S FUNDS RECEIVED AND USED FUNDS

21. On April 10, 2020, Washington received \$161,947.49 from the First Round.

22. On April 24, 2020, Washington received \$60,738.82 from the second wave of the First Round.

23. On May 6, 2020, Washington received \$3,340,513.28 from the Rural Relief Fund.

24. Washington spent \$200,695.13 on expenses directly related to COVID-19 between February 1, 2020 and the April 20, 2020 (the “Washington Closing Date”) according to Affinity Health Partners, LLC’s calculations.

25. I estimate that Washington lost approximately \$703,083.14 in revenue due to the coronavirus between February 1, 2020 and the Washington Closing Date. This number was derived from the calculations of Arnett Carbis Toothman LLP (“ACT”), which are the accountants I employed in these cases. ACT calculated \$703,083.14 in 2020 lost revenue based on the 2018 net patient service revenue. 2018 net patient service revenue was derived from internal reports

that were utilized for Washington's 2018 cost report. ACT's 2018 numbers were adjusted for inflation using the Consumer Price Index inflation calculator.

26. Lost revenue was estimated from February 1, 2020 because the T&Cs of the Provider Relief Fund indicate that funds can be used to reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus after January 31, 2020.

27. Washington received Funds of \$3,563,199.59, has Used Funds of \$903,778.27, and has Unused Funds of \$2,659,421.32.

DESCRIPTION OF PRAGUE'S FUNDS RECEIVED AND USED FUNDS

28. On April 10, 2020, Prague received \$260,869.02 from the First Round.

29. On April 24, 2020, Prague received \$5,545.00 from the OHA Grant.

30. On or about April 24, 2020, Prague received \$78,499.00 from the SHIP Grant.

31. On May 6, 2020, Prague received \$2,896,348.19 from the Rural Relief Fund.

32. Prague spent \$69,744.65 on expenses directly related to COVID-19 between February 1, 2020 and the May 4, 2020 (the "Prague Closing Date") according to the calculations of Cohesive Healthcare Management and Consulting ("Cohesive").

33. I estimate that Prague lost approximately \$1,693,511.83 in revenue due to the coronavirus between February 1, 2020 and the Prague Closing Date. This number was derived from the calculations of ACT. ACT calculated \$1,693,511.83 in 2020 lost revenue based on the 2018 net patient service revenue. 2018 net patient service revenue was derived from internal reports that were utilized for Prague's 2018 cost report. ACT's 2018 numbers were adjusted for inflation using the Consumer Price Index inflation calculator.

34. Lost revenue was estimated from February 1, 2020 because the T&Cs of the Provider Relief Fund indicate that funds can be used to reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus after January 31, 2020.

35. I did not fully understand the attestation requirements until after signing the Addendum to Prague's Asset Purchase Agreement ("Prague's APA"), particularly that portion of the attestation requirements demanding that the party receiving the Funds attest to compliance with the relevant T&Cs or return the Funds to HHS. At the time that I signed the Addendum to Prague's APA, I did not know that the additional Funds Prague would receive would be intended to cover lost revenue for the period in which I was responsible for Prague's administration.

36. Prague received Funds of \$3,241,261.21, has Used Funds of \$1,763,256.48, and has Unused Funds of \$1,478,004.73.

DESCRIPTION OF FAIRFAX'S FUNDS RECEIVED AND USED FUNDS

37. On April 10, 2020, Fairfax received \$141,037.14 from the First Round.

38. On May 6, 2020, Fairfax received \$2,763,429.39 from the Rural Relief Fund.

39. According to the calculations of Cohesive, Fairfax spent nothing on expenses directly related to COVID-19 between February 1, 2020 and the March 20, 2020 (the "Fairfax Closing Date").

40. I estimate that Fairfax lost approximately \$526,858.01 in revenue due to the coronavirus between February 1, 2020 and the Fairfax Closing Date. This number was derived from the calculations of ACT. ACT calculated \$526,858.01 in 2020 lost revenue based on the 2018 net patient service revenue. 2018 net patient service revenue was derived from internal reports that were utilized for Fairfax's 2018 cost report. ACT's 2018 numbers were adjusted for inflation using the Consumer Price Index inflation calculator.

41. Lost revenue was estimated from February 1, 2020 because the T&Cs of the Provider Relief Fund indicate that funds can be used to reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus after January 31, 2020.

42. Fairfax received Funds of \$2,904,466.53, has Used Funds of \$526,858.01, and has Unused Funds of \$2,377,608.52.

DESCRIPTION OF HASKELL'S FUNDS RECEIVED AND USED FUNDS

43. On April 10, 2020, Haskell received \$88,288.89 from the First Round.

44. On April 24, 2020, Haskell received \$40,222.91 from the second wave of the First Round.

45. According to the calculations of Cohesive, Haskell spent \$153.95 on expenses directly related to COVID-19 between February 1, 2020 and the May 15, 2020 (the "Haskell Closing Date").

46. I estimate that Haskell lost approximately \$1,512,053.55 in revenue due to the coronavirus between February 1, 2020 and the Haskell Closing Date. This number was derived from the calculations of ACT. ACT calculated \$1,512,053.55 in 2020 lost revenue based on the 2018 net patient service revenue. 2018 net patient service revenue was derived from internal reports that were utilized for Haskell's 2018 cost report. ACT's 2018 numbers were adjusted for inflation using the Consumer Price Index inflation calculator.

47. Lost revenue was estimated from February 1, 2020 because the T&Cs of the Provider Relief Fund indicate that funds can be used to reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus after January 31, 2020.

48. Haskell received Funds of \$120,511.80, has Used Funds of \$1,512,207.50, and has no Unused Funds.

49. I seek confirmation that the Used Funds amounts are accurate and in accordance with all applicable T&Cs. I further seek confirmation that I may pass Unused Funds onto Purchasers. I further seek an order barring HHS from holding me or the Debtors' estates liable for any use of the Funds. I believe this request is reasonable given the amounts of money that I have been provided, the guidance I have been provided from HHS, and the limited time any Fund recipients have to attest to the use of the Funds. I believe that a prompt order on this matter would give any Purchasers time to attest to the Unused Funds or return them. In the alternative, I seek an order delaying the attestation date until this Court rules on these matters.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this the 20th day of May, 2020, in Winston-Salem, North Carolina.

/s/ Thomas W. Waldrep, Jr.
Thomas W. Waldrep, Jr.
Chapter 11 Trustee for the Debtors